

Statement of U.S. Representative Edward J. Markey (D-MA)
Ranking Democrat, House Telecommunications Subcommittee
Oversight Hearing of Internet Domain Names
and Internet Governance
February 8, 2001

Good Morning. I want to commend Chairman Upton for calling this hearing today on the Internet Domain Name System and issues related to Internet governance. I also want to thank all of our witnesses for coming to share their views with us on these important topics.

Mr. Chairman, the Internet Corporation for Assigned Names and Numbers or ICANN was established to perform certain limited, but highly vital functions. It was created specifically to undertake certain administrative and technical management aspects of the Domain Name System and the Internet address space. ICANN exists because the U.S. Department of Commerce, and many corporate and civic entities, believed that these functions should not be done by the government but instead by a private sector entity.

In its early stages of the Internet's development, things were much easier. Vint Cerf could contact Jon Postel, who in turn contacted a select group of Internet pioneers and elder statesmen and they were largely able to determine among themselves what was best for the Net's development. Yet given the rapid commercialization of the Internet and the ardent desire of various public, private, and civic voices to have their say on how the Internet develops from here forward, it is obvious that we must proceed with a different process.

As we do so, it is important to keep in mind that ICANN is not simply an international standards setting body. Recent decisions creating new Top Level Domains demonstrate that ICANN is establishing Internet policy in its selections, not merely advising the global community of appropriate technical standards. This development in itself is neither good nor bad. It is perhaps, somewhat inevitable. It only becomes problematic when ICANN starts to make policy judgements without an adequate policy process.

There's no question in my mind that the current process is highly flawed. ICANN has made much of the fact that all applications and comments were posted on a website. That's very useful, but it is no substitute for a comprehensive policy process --especially for something as important to Internet competition and diversity as selecting new Top Level Domains.

New Top Level Domains are a quasi-public asset. Some of the people making these decisions were elected, some were not. There was a significant \$50,000 fee assessed applicants although not all of that money was actually spent analyzing the applications themselves. Not all technically qualified and financially qualified applications were selected. The "winners" therefore, were chosen for other, more subjective reasons -- although its not apparent what criteria were used for these subjective judgements.

To hear some of the participants explain it, (both winners and losers,) events at the Vatican are shrouded in less mystery than how ICANN chooses new Top Level Domains.

Let me be clear however, that this does not mean that any of the seven new Top Level Domains selected are bad choices or should not have been chosen. ICANN would have done well to prohibit in this first round of applications any application from the incumbent, Verisign, but at the end of the day the new seven domain names chosen will increase competition and diversity somewhat.

My concern is with those that were not selected and with the smaller, less powerful voices who feel they have no access to this process. We have a number of important questions to explore today. For those applicants that were not selected, what is the appeals process? To whom are the ICANN board members accountable to the Internet community? to the Department of Commerce? Is the Department of Commerce performing adequate oversight or is it simply an eyewitness to history? How can we make the subjective criteria for ICANN's policymaking more clear? Does ICANN have adequate resources to perform these policy functions? How do we address ICANN's long term funding needs?

This future of Internet governance and Internet policymaking raise vitally important issues. I want to commend Chairman Upton for calling this hearing and again, thank the witnesses for their participation this morning.